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DISSERTATION

ON THE

Constitution *and* Effects

OF A

PETTY JURY.

*Mos erat antiquus, niveis atrisq; lapillis,
His damnare reos, illis absolvere culpæ.*

OVID. METAM.



DUBLIN :

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TO HIS GRACE, the
LORD LIEUTENANT
OF
IRELAND.

MY LORD,
THE little Dissertation following, which I take the Liberty to Dedicate to your Grace, does not, (tho' it is likely it needs it) idly ask your Protection against the Criticks, but against the injudicious Friends, and real Enemies of that Country, over which you preside. Your Grace's Approbation wou'd afford infinite Pleasure to the better Part of the Nation, who have long wish'd for a Redress of the Grievances complain'd of in these Papers, and who are perswaded your Grace cannot neglect what you
A 2 approve

DEDICATION.

approve. If upon perusal, it shall appear that the Disorders we suffer by the Constitution of a *Petty Jury*, are worthy of your Grace's Notice, there is good reason to hope that you will, either recommend the *Greek* and *Roman* Remedy proposed for them, or think of some other that shall seem better fitted for the Purpose. I will be so bold as to say, that if your Grace laid a Scheme of that Nature before the Parliament of *Ireland*, your Recommendation, and the Expediency of the Thing itself, wou'd carry it through. It is the Opinion of the Nation that we shall have as much reason to remember the Administration of the Duke of *Devonshire* with Gratitude, as we now do that of the Duke of *Dorset*. But it wou'd be the distinguishing Glory of his Government, if while he is Lord Lieutenant, the People of *Ireland* shou'd change, the *Gothick* Constitution of a *Petty Jury*,

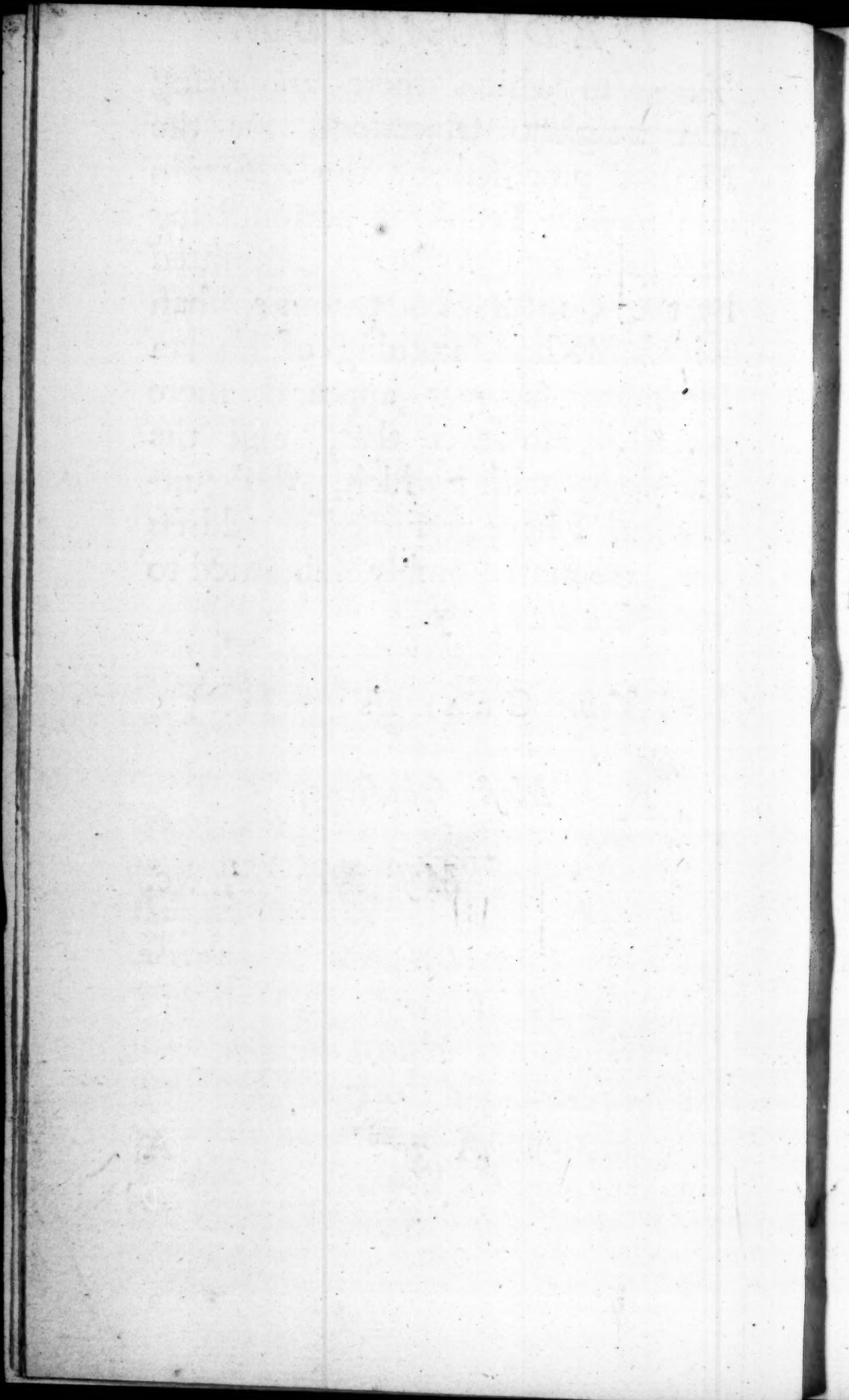
DEDICATION.

Jury, to which there are many and weighty Objections, for the Method practis'd by the *Athenian* and *Roman* People in administering the same Power that is committed by the Constitution to our's, than which Method, nothing of human Invention has yet appear'd more perfect. However that, and the Freedom, with which, tho' unknown, I have presumed to address you, are most humbly submitted to your GRACE, by

Your GRACE'S

Most Obedient,

Most Devoted, &c.



A
 DISSERTATION
 ON THE
 CONSTITUTION and EFFECTS
 OF A
 PETTY JURY.

THERE is a Sort of an Ecclesiastical Saying in every Body's Mouth ; *The nearer the Church, the farther from God.* Perhaps if this Civil one were introduced it wou'd not be amiss ; *The nearer the Court, the farther from Right.* It is a common Observation, that there is no where more filching, and picking of Pockets, than at the Execution of a Felon. For the Truth of this we are to credit those who frequent such Entertainments. But I can aver upon my own Knowledge, that in no Place more Tricking and Dishonesty is learn'd and practis'd, than in and near our Courts

of Justice, as they are call'd ; I don't mean, that the Goal, which generally makes a Part of the Court-house, is a Seminary of Thieves, and a Kind of College where the Arts of evading Law, and escaping Justice may be easily and cheaply learned by the Dregs of the People. What I mean is that in the Court itself, where the Law is explain'd and Causes try'd, the wealthier Kind of People are taught a more refined System of Arts, by which Property may be confounded in a creditable, and Bloodshed in an honourable Way.

Having liv'd for this four or five Years in an Assize Town, and having not only conversed a good deal with the People, but also attended at many Tryals of different Kinds, I have had frequent and flagrant Opportunity of observing, that for one that obtains Justice, an hundred are taught Injustice at an Assizes. This I will not charge, as is generally done, on the periodical Flight of powder'd Practitioners that circulate with our Judges, and to make Law the more necessary, endeavour to banish Religion from among our Country Gentlemen, who, being obliged to take that Matter upon Authority, had rather trust to a Lay-brother, than him that gets the Tythes. Many of these People, it is true, who have learned to talk, do some Hurt. They sap the only Foundation of Honesty, by undermining Religion ; and every body knows the less Honesty the better for them.

The general Decay of Justice must be owing to some Cause more powerful, and more nearly concern'd in the Administration of our Laws. I am afraid the Constitution of a Petty Jury is chiefly to be blamed for it. However, whether it is or not, will perhaps better appear upon Examination.

A Petty

A Petty Jury consists of twelve Men, who are obliged upon Oath, well and truly to try, and true Deliverance make of such Causes as are brought before them. Their Tryal and Deliverance is to be the Result of the Evidence produced by either or both Parties in the Debate. As soon as they have heard the Witnesses examin'd, they are shut up in a close Room, and one set to keep the Door, who is sworn to suffer neither Meat, Drink, Fire, nor Candle to be carried in to them, nor any of them to go out thence, till they are ready to give a Verdict, in which they must be unanimous to a Man, or it is not decisive. If there be but one who dissents from the Opinion of the Rest, they are all confin'd under the aforesaid Difficulties till he agrees, nor can they be set at Liberty, till the Judge is out of the County.

Such is the Constitution of a Petty Jury, which, were it shewn to some one, who had never heard of a Jury before, wou'd probably appear a very unpromising Instrument of Justice. The Necessity that the whole Number shou'd be unanimous is the first thing that wou'd shock him. Some Cases indeed are made so plain by the Evidence, that all Mankind must agree about them; but there are infinitely more Cases where the Evidence is neither so clear nor full, but that of six who attend to it, one or two wou'd differ from the rest, at least till they had conferr'd. And it shou'd seem no less improbable that conferring shou'd reconcile them. Every one who is in the least acquainted with human Nature, knows, that to persuade or convince is a very difficult Undertaking, and that the Difficulty is still incomparably greater, when the Reasons, the Opinions, the Prejudices, and perhaps Interests of one Man are to be beat down, and those of another

another erected in their Place. We see that in mere speculative Disputes the Shame of a Defeat, and Thirst of Victory are alone sufficient to make them endless.

It may be objected here that the Oath of a Petty Juror, and the Sense of his Duty will probably take off those Byasses from his Mind, and leave him at Liberty to hear Reason, and to form a fair and candid Judgment. He that knows Mankind, knows the Case to be otherwise in general. In most Men Passion and Interest are superior to Principle, and govern without Disguise. In many they conceal themselves under a Show of Reason, and so impose upon Conscience. But in those few, that are sway'd by Conscience, if their Oath rids them of Prejudices and Attachments, it substitutes in the room of them such a scrupulous and timorous Exactness, as will make it very hard for them to be determin'd either by their own or other People's Reasonings ; insomuch that if we cou'd suppose a Jury of such, the Case must be extremely clear in which they cou'd agree. A Man of Candour frequently finds it difficult to decide a doubtful Case within himself. If in one Mind there is so much room for Debate and Doubt, what must there be among twelve, whose Ways of thinking are at least as peculiar and individual as their Faces ?

How rare a Thing is it to see a Company of four or five agree about such Points as happen to be debated among them ? It is well if they can bring their various Sentiments under two opposite Opinions. I speak this of Companies made up of People upon an Equality with one another. Even when the Fortune or reputed Understanding of one makes him a Dictator to the rest, his Opinion is only complimented with a seeming Con-

Concurrence. But when a Man is sensible that the Property or Life of his Neighbour, and his own Soul, are all risqued upon the Justice of his Verdict, then if there is either Sense or Conscience in him, they will oblige him to examin with the greatest Nicety, and judge with the utmost Circumspection. And what will be the Effect of all this? Why, in some Cases, and in some Minds it will be attended with such Doubts and Scruples as the Man himself can never determin, tho' he call in all the Assistance of other People. But in others, such a nice and severe Disquisition will end in an Opinion so rivetted that no Arguments nor Persuasions will be able to get the better on't. In either Case there will be no Determination; or if there be, it will be against the Conscience of some in the Number. In short, if a Man is more concern'd to examin with Care, and judge for himself upon Oath, than without it, it follows that Opinions, form'd at such a Peril of his Soul, will be less accommodated to the Opinions of others, and yield with infinitely more Reluctance to Persuasion, than such as he is accountable for only to his Understanding, which, nevertheless, few Men know how to surrender.

It is plain that the *Gothick* Compilers of this Constitution have taken all the above-mentioned Difficulties for granted, by the Means they have used to procure Verdicts notwithstanding. The twelve Men are to be kept close in the most uncomfortable Confinement till they can agree. They are to have neither Meat, Drink, Fire, Candle nor Easement, unless their Porter is so charitable as to damn his Soul for their Relief, till they can all think one Way. The Contrivers of this Expedient being sensible that there is a very strict Connection between the Mind and Body
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of Man, and not knowing how to strike immediately at the Mind, play'd their Engine against the Body, by distressing of which they proposed to reduce Reason and Conscience to a proper Pliancy. It is manifest, that in this they took more Care to have a Verdict, than that Justice shou'd be done, tho' the latter was the only End to be obtained, and the Jury itself but the Means.

I believe there cannot be an Instance given of a more barbarous Attack upon Reason, or greater Violence done to the Conscience. The Body is to be starv'd, and the Life put in imminent Danger in order to bring over the Understanding, while its real Determination is supposed to be withheld by Conviction, and its outward Assent by an Oath. Is it not as monstrous to consult Justice by forcing an Unanimity in this Manner, as to force Uniformity by Persecution, in order to the Advancement of Religion? By thus laying a Weight upon the Body, the external Assent is brought over, while Conviction and Conscience stare it full in the Face. I fancy it must be entertaining enough to observe the Sentiments of a Jury that differ'd widely at its first going out, drawing nearer and nearer to each other as the Reasons, offer'd by the Appetite and Stomach grow stronger and stronger, till all their Differences being devour'd, as it were by Hunger, are digested and done away, and the Opinion of him or them who are least dependant upon Meat and Drink, is returned as the unanimous Opinion of them all. What are Reason and Principle in the Way of Hunger, that breaks through Stone Walls?

Such wou'd be the Objections of one, who never heard of a Jury before, to the form of our Petty Jury, from the mere Nature of the Thing itself.

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It may be ask'd then, how such an unreasonable Scheme for the Administration of our Laws came to take place among us, and what induced the Nation to submit the Bulk of all its Business, the Properties, Liberties, and Lives of the Subject, to a Contrivance so misshapen and so ill concerted? It is not unlikely that the same Causes which usually produce unjust Laws, or partial Schemes of Government had their Share in the Production of this. If it is very liable to Interest, and can be easily made to serve the Occasions of the leading Man or Party in a Country, as I shall shew presently, this might have help'd it into Practice at first, and supported it afterwards. It is certain however, that it is of *Gotbick* Original, and that it was invented, and at first practis'd by a rude and barbarous People, little skill'd in the Art of Government. Besides, at its first Invention it might have had a more tollerable Form; taken all together, it seems to have been the inconsistent Work of different Ages, if not of different Interests. It is probable that at first, it was only a Court of twelve Men, who were to be unanimous, or there could be no Verdict; but without an Oath, without Confinement, &c. which seem to have been added afterwards, in order to force a Verdict, and yet provide for an honest one, as well as possible. It was brought into *Great Britain* by the *Anglo-Saxons*, to whose Government and Laws it might have been better adapted than to ours; it certainly was, to their Religion: They were Heathens, among whom the Obligation of an Oath could neither have been so sacred, nor so binding as among Christians, truly such. When they became Christians, they were too tenacious of their old Customs and Privileges, to lay this Form aside, tho' the necessary Unanimity on the one Hand, and the dreadful Obliga-

Obligation of an Oath on the other, rendered it then so inconvenient. The Sufferings of the *English* under the *Norman* Kings, among which we may reckon as chief, the Abolition of their antient Laws, which had been lately reduced to a Body by *Edward* the Confessor, were so great, that they thought themselves happy in the Restitution of them by the Charter of *Henry* the First. At such a Juncture, had there been greater Defects than this we are complaining of (and greater are scarce possible) they would have made no Scruple of embracing them accompanied with their antient Liberties and Laws.

Thus the Petty Jury, as we now have it, being introduced Piece by Piece, came down to us as a Part of our Constitution; and as it was always supposed to be the chief Foundation of the People's Privileges, it was not to be expected that the People should desire to see any Alterations made in it. Tho' if it can be shewn that its Form is such as exposes the Bulk of the People to the Iniquity and Oppression of their petty Tyrants, more than it guards them against the Power of the Crown, they will have but little Reason to glory in it as the Basis and Bulwark of their Privileges.

To effect this, it will be sufficient to prove by Experience, and from its own Nature, that it has the strongest Tendency to render Perjury and Partiality familiar to the Commons in general, and to exclude those from sitting as Jurors, whose Consciences are not to be corrupted by any Means. For wherever this is the Case, wherever Oaths are made light of, and common Honesty despised, wherever good and honest Men, whose Consciences are governed by Religion, are shut out from the Admini-

Administration of the Laws, and the Administration left only to such as have nothing to consider but how to serve themselves, or those who can serve them again; there Privileges, and Liberties, and Rights are a mere Jest. The great Man, or the ruling Party disposes of every thing at Discretion.

But to the first Point, *viz.* That a Petty Jury tends strongly to render Perjury and Partiality familiar to the Commons in general, or the People. It is a constant Practice, when any one dissents from the Opinion of his Brother Jurors, first to endeavour to reduce him by the strongest Arguments they can offer; if those don't take effect, the next Expedient is teizing; If Conviction and Conscience still hold out, (and in Reason and Charity those ought to be supposed as the Principles of an Opposition so very inconvenient and prejudicial to himself) then he is to be represented to the World as a Wretch of a most perverse and crooked Disposition, as stiffened by a Bribe, or partial to the wrong Side against Justice and his Oath, in short, as a Man with whom Business cannot be done, nor Measures taken. This Character is fixed on him as a Brand by which other Sheriffs are warned to avoid him, and his Countrymen so frightened, that no Body cares to be on the same Jury with him again. Besides as he can serve no Body, no Body will serve him. As he has opposed the reigning Interest, it will not fail to oppose him, whenever it is his Misfortune to have any Business of his come before a Jury. All these Considerations, added to Hunger, Cold, Confinement, and Darkeness, beat strongly against his Conscience. He must be a little Hero to bear up and combat such a frightful Muster of almost every Thing that can hurt him in this Life. There is nothing more rare than such a Spirit. Notwithstanding

withstanding all the Difficulties in the way of Unanimity, arising from Diversity of Opinion, and the solemn Ties of an Oath, we see the Difficulties and Terrors just now mentioned, on t^other Side, prevail so over them, as to bring the Jury (unless it be once in a thousand Times that they stay out a little while for Decency's sake) to a ready and chearful Agreement. Business is dispatched, and Right settled, with almost as much Expedition, as if the Determination were lodged in the Breast of one single Man; and we are agreeably surprized, to see Causes of the most doubtful and difficult Nature, decided in a few Minutes by twelve Men, any two of whom could find Matter of many Hours Dispute in any ordinary controverted Point, where neither their discernment is awaken'd by an Oath, nor their Caution by a sense of Justice. That the Desire of doing Justice should make one less scrupulous, and an Oath less conscientious, is surprising; or that where there are more Scruples, there should be fewer Doubts; where more Conscience, less Debate and Disquisition, is what from a Knowledge of Mankind, one would not expect. Nor indeed are, those Causes of Nicety and Dispute in all other Cases, the Causes of Agreement in this, no, in this they are no Causes at all; they don't interfere; they are superseded by the Fear of being out-law'd, in the Manner mentioned above, or by a Willingness to court the reigning Interest. These Principles are to be thank'd for all that Harmony with which our Differences are decided by Petty Juries. The Ends these aim at are well known and easily agreed upon.

As soon as any one has once or twice made a Sacrifice of his Conscience to the aforesaid Considerations, he is then qualified for Business, he neither thinks Perjury nor Partiality such odious or
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such terrible Crimes as he took them for at a Distance; he is prepar'd to use them on other Occasions as well as on a Jury, whensoever his own Interest or the Service of his Friends, which to him, (generous Man!) are the same Thing, shall require it. His Conscience, a little Refractory at first, being now back'd and bitted by his Interest, trudges on quietly thro' Thick and Thin, and is so very tame, that it will without wincing in the least, suffer him now and then to take up a Friend behind him in a dirty Road. This Gentleman thus qualified, and with this happy Turn to Business shews a particular Zeal for the Service of his Country. He is never wanting to the Sheriff nor his Friends. You see him bustling and squeezing forward into the Eye of the Court, ready to answer aloud to his Name, and catching at the Book, when he comes to be sworn, with an Eagerness that shews he has the Business of the County at Heart.

Now as almost all our Squires and Freeholders take their Turns to sit on the publick Business as Petty Jurors, so they have all an Opportunity of qualifying themselves as aforesaid. I submit it now to all the Candid and Observing, whether a Petty Jury may not be look'd on as the Nursery and School of all our Country Law-jobbers, and County Politicians, as the Source of almost all that shameless Partiality, impious Perjury, and cruel Oppression, under which the Country groans; and of all those monstrous Verdicts especially, with which the Petty Juries of one County have surpris'd and shock'd even those of another.

Again, this same Constitution of the Petty Jury, while it, as it were with one Hand Scatters the Contempt of Justice and an Oath among the People, with the other drives away the honest

and the Conscientious from the Administration of our Laws and the Service of their Country. It must be great Resolution indeed, and such as few Men are Masters of, that can encourage an honest Man to make one on a Petty Jury, when he knows, that if he shou'd dissent from the Interest that is to govern the rest, he is to be made the publick Mark of Calumny, that his Reputation, and his Fortune, if it be liable, are to be worried by the Den of Lyons, whose Teeth are Spears, and Arrows, and whose Tongue is a sharp Sword. Few Men wou'd care to run into the miserable Dilemma, either to act against their Consciences, or to bring on themselves the Persecution of the County in which they live. For this Reason it is that honest and scrupulous Men absent themselves from the publick Business, and chuse to be fined rather than incur a much greater Evil, which they have so just Reason to fear the clashing of their Consciences, and the Constitution of the Petty Jury will bring upon them. By this Means the Fine, that was intended for the publick Good, becomes a Tax upon Conscience and common Honesty, Commodities so rare that I believe the Duty on them brings but little into the Treasury of any County. An honest Man who keeps a Shop, or deals in any Kind of Retail, whose Business and Trade depends upon the Number of his Customers, is more especially concern'd to shun an Assizes, if there be any Cause to be brought on above the Tryal of a Pick-pocket; because he is more dependant on his Character, and on the Good or Ill-will of his Neighbours, than People in any other Kind of Business. Nor is the Loss of this Class of Men to Justice a small one, because, of all Kinds of Men, capable of being on a Petty Jury, from the Country 'Squire to the five Pound Farmer, there are none, generally speaking, so rational or conscientious

conscientious as the Merchants, none on whom the Welfare of the Nation does so much, or so immediately depend, none therefore who are both so well qualify'd for, or so justly intitled to the Administration of Law and Justice.

Can any Country be more unhappy than one in such a Situation as this, with Medlers, and Time-Servers, and Party-men, to say no worse, and worse need not be said, to execute its Laws, and distribute Justice? And can any thing be plainer than that the Form and Constitution of a Petty Jury is principally in Fault? Let every one judge now whether, in a Place, where Self-interest, Avarice, and Corruption prevail, the Rich, and the Cunning must not have the Management of every Thing. It is not possible that there shou'd be common Privileges or a publick Good where Honesty is wanting, because Conscience being thrust out of Play, and Interest the only Principle, the only Spring and Motive of all that passes, Power must be bought and sold, must inevitably fall into the Hands of a few, who are able to purchase it. By this Means that Share of Power, which by our Constitution is vested in the Commonality, is as effectually taken out of their Hands as if there were but one will in the Nation. In some Counties the Government, which ought of Right diffusively to belong to the whole Body of the People is collected and shared by two or three, who associate to dispose of it, as seems best to themselves, without being diverted from their Schemes, or maiming their Measures by weak Scruples about Justice. Among these however, Justice is sometimes done, and the People admitted to some Share in Affairs by the mutual Jealousies, and the frequent Contentions among their Leaders. When the great ones fight for the Power, the People, under their Feet, sometimes catch up

such Parcels of it as fall in the Scramble. There are but two Sides of a Question, so that when those in Power are divided, the stronger Party must take one Side, and sometimes it happens luckily to be the right one. In other Counties the Administration is purely monarchical. There is one Person who can carry any thing. Whoever has a Point to gain must have his Assistance, and in Lieu of it engages his whole Interest, and his most vigorous Services to that Person. And as this either was, is, or may be the Case of every one within the County, so the little Tyrant has every body at his Devotion. Who now is so blind as not to see, that this cou'd never happen, had Oaths and the Love of Justice the Weight among us that they ought to have? And who does not see by what Means we are taught the scandalous Contempt of Oaths and Justice that reigns among us; and how it comes to pass, that a People made free by the present Constitution of the Kingdom, are shamefully and miserably enslaved by their Corruption and want of Conscience?

I know nothing more ridiculous than to hear our People, as they often do, calling a Petty Jury the Foundation and Security of all their Liberties and Privileges, and idly congratulating themselves upon that Influence and Weight which it gives them in their Country. They think themselves very happy that they and their Differences are to be judged by their Peers.

But if there can be no Liberty, nor Privilege, where there is no Conscience, as it is plain there cannot; and if it is true, as it certainly is, that the Bulk of the People make no Conscience of deciding as the ruling Party directs, I cannot see where those boasted Privileges are to be found. Shall any Man glory that he is to be the Instrument

ment of another's Will, that he has leave to repeat another Man's Words, that he is employ'd to carry on the Designs of another, tho' to his own eternal Shame, and perhaps at the Expence of his Soul? And yet this is all these mighty Judges and Governors are trusted with. Nor have they more Reason to rejoice in their Right to be judged by their Peers, as they call it. To be judged by one's Equals is, no doubt on't, an high and inestimable Privilege, but are our Commonality judged in this Manner? No, tho' they see some of their own Rank on their Juries, yet they see one or more at the Head of them in all Matters of Moment, as far removed above them in Wealth and Power as many Barons are. And when this is not the Case, those twelve Men are not going, as the People imagine, to examine and judge of the Affair before them, but only to go thro' the legal Forms, and at the Conclusion to bring in the Verdict dictated to them by the leading Man or Men of the County, who are no more their Peers or Equals, tho' they are called so, to distinguish them from the Nobility, than the Nobles themselves. To be judged by one's Peers, in any Sense that can be call'd a Privilege, is to be judged by such Equals, as from living in a Condition nearly the same with our own, may have Humility enough to consider our Case with Attention, Fellow-feeling sufficient to temper the Rigour of Justice, and what is more than all, by being upon an Equality with the Parties in the Dispute, may fear to injure either by an unjust Verdict. But does he that rules a County fear the Displeasure or Complaints of a poor Farmer or Tradesman? Does he feel the Anguish of an unhappy Prisoner, or a miserable Family distress'd by Robbery or Oppression? Will he condescend to discuss with Exactness the Differences of mean People, which, tho'

they be to them Affairs of the last Consequence, are nevertheless contemptible Trifles to him? If he will, why, then it is no Happiness to be judged by our Equals, since our Superiors can do it as well, and we are very idle to boast of a Privilege, which we neither have, nor can see Reason to desire.

Upon the Whole, the Observation of every one may satisfy him, that a Petty Jury, in teaching Perjury and Dishonesty, takes away the Liberties of the People, and brings them into the most abject State of Slavery that can be imagin'd. It is the peculiar and the glorious Privilege of Honesty and Integrity that they cannot be enslaved, and that nothing else can be free. It is the Reproach and Misery of Dishonesty, that by its own Nature, it unavoidably brings on it self Tyranny and Oppression. If a Man is to be sold, there is one always ready to buy him. If Selfishness and Avarice, help'd out by Baseness and Dishonesty, can set Consciences to Sale, Ambition will never fail to find Purchasers. And those, who buy other People's Consciences, cannot but have mercenary ones of their own. The petty Tyrant of a County always exercises his Power in the same Manner that he got it; only, as it fares in all Kinds of Traffick, he will not give it, unless for more than it cost him. This impudent and saucy Encroachment from which few, if any Counties, are free, is the Cause of all that Perversion of Justice, which scarce any honest Man has not one Time or other suffer'd by, nor scarce any Rogue that has not rejoiced in. This gives away Right, persecutes Innocence, protects Crimes of all Kinds, among which Murders, especially of the most barbarous and horrid Nature are brought off, not only with Impunity, but Triumph. There is no need to
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assign Instances. — There is not a County in the Nation that has not over and over again imbrued itself in innocent Blood, within these twenty Years past, by acquitting Murderers, proved guilty with such Evidence as the Laws of God and Man have made sufficient.

To say, that the Judge of all the Earth, will exact publick Vengeance for the Groans of the Oppress'd, and the Crys of innocent Blood, is to expose one's self to the Ridicule of an infidel and abandon'd Age ; an Age taught, by Perjuries on Petty Juries, to fear God and Divine Justice no more than it fears the Laws or Justice of Men. However a Remedy must be apply'd to these Enormities. If the Nation has not the Virtue to redress this terrible Grievance, nor natural Medicine of it's own to cure so miserable a Malady, no doubt on't Divine Providence will, as usual, put it under such a Discipline, as may at once atone for past Grievances, and be likely to suppress them for the future. But as Providence seldom redresses general Grievances, unless by general Calamities, wou'd it not be better to avert the Necessity of so dreadful a Remedy by an easy and rational Method of human Contrivance ? Taking it for granted that it wou'd, I shall propose such an one as may probably answer the End, without making any other Apology for my so doing, than this, that the Scheme I intend to offer is not my own, and that it has already been practis'd with excellent effect by the wisest and best govern'd Nations in the World.

I believe every one will allow, that a Scheme, by which the Sanctity of Oaths wou'd be preserv'd, Justice duly executed, and the People judged by their Peers, without any Alteration in our national Constitution, or any material Change in our Laws, would be a very useful and desirable

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one ; and I hope that which I shall propose will seem the most likely to answer all those great Ends.

The first Thing to be done in order to this Scheme, is to appoint a Jury or certain Number of Men for all Tryals.

Let TWENTY THREE be the Number, and let the Choice be made as it is at present, by the Return of the Sheriff, and the Right to object. In criminal Cases, let the Prisoner at the Bar be permitted to object peremptorily to no more than five Persons ; but let him have a Right to throw out every Man of the whole Return, provided he can assign a sufficient Reason. In Cases of Property, let the Choice be made as it is at present ; but let the Number be TWENTY THREE. Let the Twenty Three Men, when fix'd, be sworn in a most solemn Manner, well and truly to try, and true Deliverance make in the Cause to be brought before them. Then let them proceed to Tryal. As soon as all the Witnesses are examin'd,
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and the Judge has summ'd up the Evidence, let two spherical Pieces of Marble, one white and the other black, of half an Inch in Diameter, be deliver'd to each of the Jurors. After this, let the Jury continue in its Box for ten Minutes; and if any one of them speaks to another, or if any one, not on the Jury, speaks to one or more of the Jurors, let him be fin'd fifty Pounds, or imprison'd for a Year. Let them then, in the Order in which they were sworn, return, each Man his own Verdict, in the following Manner. Let there be placed before the Judge of Assize two brazen Urns, each four Feet high. Let the Mouth of each Urn be wide enough to receive the largest Hand. Let the Mouth grow narrower towards the Bottom, till it forms a Neck only two Thirds of an Inch in Diameter within. Let it open again to a Foot in Width, and at two Feet Distance below the narrowest Part of

of the Neck ; let a thin Slider of Brass cut off the lower Space of the Urn horizontally. Let this Slider have an Handle on the Outside by which it may be pull'd out or thrust in. Let one of these Urns be set to the right Hand of the Juror, and the other to the Left. Let that on the Right be the Urn of Verdict. If the Juror wou'd acquit the Prisoner, or find for the Defendant, let him put his right Hand into the Mouth of the right Hand Urn, and drop his white Stone into it ; if he would condemn the Prisoner or find for the Plaintiff, let him drop his black Stone into it. Let him with his left Hand drop his other Stone into the Urn on his left Hand. As soon as the Stone drops on the horizontal Plate of Brass, let the Judge pull out the Plate, upon which the Stone will fall into the lower Part of the Urn. If the Stone, when it falls on the horizontal Plate, does not render one
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clear and audible Sound, let the Party on either Side, that suspects, appoint a Man, who, before the Judge pulls out the horizontal Plate, shall put his Hand, having first shewn that he has nothing in it, into the Belly of the Urn, at a Door made so high in the Side of the Urn, that the Stone cannot be seen through it; and having felt whether there is more or less than one Stone on the Plate, he shall withdraw his Hand, shewing that he has nothing in it. Upon this the Door shall be shut by the Judge. If he who was appointed to feel the Inside of the Urn, says there is but one Stone in it, the Judge shall then pull out the brazen Plate. But if he says there is none, then the Juror shall be fin'd fifty Pounds, and be obliged to drop in his Stone in Pain of five hundred Pounds or three Years Imprisonment. If the Tryer says there is more than one Stone, then
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the Judge shall take them out, and obliging the Juror to drop a single Stone, shall fine him in the Sum of fifty Pounds. When the whole Twenty Three Men have thus deposited their Votes, the Judge in the Sight of both Parties and all the People, shall open the Bottom of the Urn of Verdicts, at a Door made for the Purpose beneath the horizontal Plate of Brass, and taking out only one Stone at a Time, shall shew it to the Parties and the People, till he has taken out twelve of one Colour, upon which he shall shut the Urn and draw out no more. If there are twelve white Stones, the Prisoner is acquitted or the Defendant found for. If there are twelve black Stones, the Prisoner is condemn'd or the Plaintiff found for.

As this Scheme will at first Sight seem a little odd, it will not be amiss to assign the Reasons of each Particular in it.

And

And first, as to the Number Twenty Three. By the present Constitution of a Petty Jury, there must be an Agreement of twelve Men to make a Verdict. If the Reasons for that Number are good, they will be as good for the Number in this Proposal because the least Majority in Twenty Three being Twelve, and the Verdict being the Opinion of the Majority, there will always be an Agreement of twelve at the least. If it be objected here, that when there is an Agreement of only Twelve against Eleven, as it will sometimes happen, the Verdict will in that Case, be really the Verdict of one only ; and that it wou'd be hard that the Property of any one shou'd be determin'd by a single Man, and harder still that a Life shou'd depend upon one Vote ; I answer that an Agreement of twelve Men obtain'd with a due regard to their Oaths and to Justice, even when opposed by Eleven, is a more equitable Verdict, than one obtain'd in the present Way, by which Oaths and Justice are brought into such Contempt. When a Jury of Twenty Three Men are so divided, it shews the Case is very doubtful, and that the Evidence and Arguments on both Sides are near equal. Such they wou'd appear to a Jury of the present Kind, and so perhaps as to divide it equally ; and if they did, an Agreement brought about by disputing, teezing, Sollicitation, Fear, or Favour, Inducements that have nothing to do with the Merits of the Cause, wou'd be neither an Evidence of, nor a Security to, Justice. One fair and candid Voice, if there were no more, is certainly better than six, brought off in a Jury Room from a Judgment form'd upon hearing the Evidence. And if it be said, that as the

Judgment

Judgment of the Eleven is as honestly and candidly form'd, as that of the twelve, so it ought to weigh, in the Scales of Justice, nearly as heavy, whereas by my Proposal it is allow'd no Weight at all ; I must beg leave to insist that this is unavoidable, where the Case is very doubtful, and that an Agreement of twelve Men in the present Way cannot alter the Nature, tho' it may the Appearance, of the Case, to the great Detriment perhaps of the one Party, but in such Cases must be founded on mere Partiality and Perjury. There is not a doubtful Case, in which, if the twelve Men on a Petty Jury of the present Form are agreed on one Side, you might not find twelve more, at least as honest, that wou'd agree on the other Side. Now twelve against twelve leaves the Matter as it was. If it be objected that when the Case is so doubtful, there ought to be no Decision, I leave this to be answer'd by the Advocates of our present Jury, in the Constitution of which there is so much Care taken to force a Decision by Methods quite foreign to the Merits. In the Proposal now before us the Decision is brought about by a candid Enquiry into the Evidence, and supported by an Oath, and that Oath guarded against all Temptations by Secrecy and Safety.

As for a Criminal in particular, if he have a Right to throw out five peremptorily, and as many more, as he can shew good Reason for, from the Sheriff's Return, he is rather better secured, than Justice will allow, considering that Mercy generally leans a little too strongly to his Side. The Right, which the present Regulation affords the Prisoner at the Bar to throw

throw out twenty by peremptory Objection, seems to be unreasonable. The chief, if not the only Argument for allowing of peremptory Objections at all, is this.

A poor Prisoner may have good Reasons for objecting to several Persons return'd for his Jury, which, in his Circumstances, it wou'd be dangerous for him to assign. But then it is scarce at all to be supposed, that twenty Instances of this Kind will happen to any one Man. There are seldom more than two or three Gentlemen of the first Rank return'd on such Juries ; and it is altogether in relation to them that the peremptory Objection is useful. They are not really the Prisoner's Peers. They may have it in their Power to injure him at, or after, his Tryal. It is necessary therefore, that he shou'd have a Right to remove them from his Jury, if he thinks them prejudiced against him, in a Way the least disobliging. But on the other Hand, if too great a Liberty be allow'd the Prisoner, he may by that Means throw out all such Persons on the Return, as he thinks too strictly just to acquit him ; and indeed this happens every Day. An Indulgence of such a Nature ought to be but sparingly allow'd. As no one ought to be upon a Jury against Reason, so no one ought to be thrown off, without a Reason ; and of this Reason the Court ought in almost all Cases to judge.

It is evident from Experience, that a mistaken Pity, which the Juror has no Right to shew, the Prisoner not being at all the Object of his Mercy, is strictly to be guarded against, especially

especially in Tryals of Murder. There is scarce any Body so monstrously wicked and cruel, as to put his fellow Creature to death, even tho' he may have had a quarrel with him, against Justice and his Oath. But there are prodigious Numbers affraid to condemn, tho' they judge the Prisoner guilty. And yet the Allowances given to Criminals are so great, that those who gave them, must have done it on a Supposition, that the Generality of Men wou'd condemn a Man to the Gallows, tho' innocent; and few acquit him, if guilty.

The next Thing to be consider'd in the Scheme, is the Manner propos'd for the Jurors to vote in. It will, I believe, be readily granted, that those, who are to administer the Law in any Capacity whatsoever, ought to be expos'd as little as possible to Temptations to Partiality. It has been already shewn that the present Form of a Petty Jury does extremely expose Jurors to such Temptations, and how. This is what the Scheme under Consideration proposes chiefly to remedy, first by taking away the Hunger, Cold, Darkneſs, and Confinement, which have hitherto been most absurdly applied to prove the Prisoner at the Bar guilty or not guilty, and to support the Plea of either the Plaintiff or Defendant; and in the next Place, by enabling the Juror to return his real Judgment according to his Oath, without the least Fear of suffering any Way for his Impartiality. This Latter is effected two Ways. First, the Jury after hearing all the Evidences sworn, and the Substance of what they deliver'd, summ'd up by the Judge, are to sit for ten Minutes in the Box,
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that no body may tamper with them; and silent, that they may not tamper with each other, nor discover each other's Sentiments. During this Time each Juror may settle his own Judgment upon the Matter with greater Clearness, Competency, and Impartiality, than he cou'd, were he to dispute every particular Point with his fellow Jurors. The Judgment of a Juror ought to be form'd from, and founded on, the Evidence only. For once the Opinion or Persuasion of another sets him right, it misleads him an hundred Times. If one Juror founds his Judgment on that of another, those two are in Effect but one.

Why is not a written, or orally reported Evidence received before a Petty Jury? Is it not because such an Evidence might receive some Addition, or Diminution, some Turn or Byass from the Hand by which it must be sent, if the Witness were not to be examin'd personally? But this Inconvenience might be partly incurred, if any Juror were to receive the Evidence thro' the Conception of his fellow Juror, as he must, if he gives up his own Sentiment for his, after a Debate. By the Method now propos'd a Juror may have Leave to form his Judgment from the Testimony brought before him, and at the same Time conceal it from his fellow Jurors. So far Impartiality in regard to the Cause, and Safety as to himself, are provided for by one and the same Expedient.

Nor are those two necessary Points less effectually secured by the Method propos'd
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for collecting the Votes of the Jurors. Each can render his Vote, without discovering his Judgment to any body ; he can conceal the Stone, by which he intends to vote, within his Hand, till he puts his Hand within the Mouth of the Urn, which will effectually hide the Colour of his Vote, till it has got out of all Danger of being seen. He can put the other Stone into the other Urn with the same Secrecy ; and Secrecy is necessary in that as well as the other Stone, because if the Colour of that were known, it wou'd discover the Colour of the other. As soon as the Judge shall have drawn twelve Stones of one Colour, he is to cease, because there is then a Verdict, and because shou'd the Stones be all of one Colour, he must discover the Judgment of every Man on the Jury, by exposing the Stones to View. After the Verdict is published, the Judge may (the Urns having been so contrived for the Purpose) mix all the Stones together in one Urn, by which Means the Votes will be for ever a Secret, unless any Juror has a mind to discover his own. As all the Perversion of Justice, the Partiality, and Perjury, of which our Petty Juries have been guilty, was chiefly, if not wholly, occasion'd by the Knowledge that every one must necessarily have of the Judgment of every Man on the Jury, so it is hoped, that by thus effectually preventing that Knowledge, the Injustice occasion'd by it might be also prevented. If we wou'd have Justice done, we shou'd not suffer the doing of it to be attended with any Sort of Inconvenience. If it is possible, he that is to do it, shou'd have his Person, his Character,

character, his Fortune, his Peace so securely guarded, that no Consequences of his Impartiality might ever effect him in any Quarter. The Law ought to leave those who are to administer it, as well as those who are to obey it, as little exposed as possible to Temptations to Mal-administration, or Disobedience, either from their own Weaknesses, or from the Practices of others.

It may be here objected, that this very Secrecy, to secure which there is so much Pains taken in this Proposal, wou'd be more prejudicial to Justice than the contrary, inasmuch as a dishonest Juror wou'd little care how unjustly he voted, if he were sure to conceal his Vote. This Objection is built upon a Supposition, that Shame and Regard to Character are the chief or only Motives to the doing of Justice. But we see that if People can have the Conscience to do an unjust Thing, they will easily find Impudence to face it out. Twelve Men can keep each other in Countenance, supported by the ruling Party in the County, and the general Vogue into which Dishonesty of that Kind is brought; by being often repeated. The Objection supposes too, that Injustice and Perjury are treated with due Abhorrence, that the Person who has been guilty of them, is shunn'd and despised by Mankind; which is not true. Respect waits upon Rank and Fortune, and Contempt only upon Poverty. If Justice is to be built upon the sandy Foundation of Regard for Credit and a good Name, it must soon tumble to the Ground. Impartiality is ne-

ver justly esteem'd, nor the contrary duly despised, but where Religion and Conscience have laid a general Foundation for Indignation in the one Case, and Veneration in the other. If then there is so just a Spirit of Censure among us, why shou'd we not rather Ground the Execution of our Laws, on that Sense of Religion, which it necessarily Supposes. But this Objection takes the Thing in Question for granted, (viz.) that the more the Sentiment of any Juror is known, the less apt he will be to make a partial Return. This wou'd be true if we cou'd suppose him never tamper'd with. If I have not sufficiently proved the contrary of that which this Objection maintains, in the first Part of this Dissertation, let universal Experience prove it for me.

But the Scheme does not only provide for a just Verdict, by making it safe for the Jury to return such an one; it also guards against any Frauds that might be committed, for or against, in collecting the Votes. The Stone is to be only half an Inch in Diameter, that it may be the better conceal'd in the Hand. The Neck of the Urn is to be only two Thirds of an Inch in Width, that two Stones may not be drop'd through it at once; and if they are drop'd, the one after the other, they must detect the Cheat by rendering each a distinct Sound on the horizontal Plate of Brass. The Sound will be sufficiently loud, because the Stones falling from two Feet in Heighth, will strike with Force enough to be heard at a good Distance.

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The Parties on both Sides, upon any Cause of Suspicion, will have a Right to search the Urns, not only before the Poll begins, to try whether the Urns are made according to Law, or whether there be any Stones of the same Kind with those, by which the Jurors are to vote, left in them, but also during the Poll, if foul Play be in the least surmised.

It is most humbly submitted to the candid and judicious Part of the Nation, whether this Scheme be not better fitted to answer the Ends proposed by a Petty Jury than the present Practice. In the latter every Juror's Vote is published, and that Publication bringing with it I know not how many Considerations to byas the Mind, occasions infinite Perjuries; in the Former, if a Juror has the smallest Mite of Conscience, he will vote according to it, since by concealing his Vote, he effectually secures himself against the Malice and Revenge of the Party whose Cause he condemns. In the Latter, Justice is left exposed to Fear and Favour; in the Former it is as well defended against both, as is possible in human Affairs. In the Latter, the Rights of the People to judge and be judged by their Peers is quite taken away, and engross'd by a few of their Superiors; whereas in the Former those Rights are restored to the People according to the Constitution of our Country, and the true Intention of a Petty Jury. The Proposal makes no Change in the national Constitution, neither contracts the Power of the Crown, nor

extends the Liberties of the People ; it only defends those Liberties against the Artifice and Oppression practised by a few upon the Body of the People, upon Conscience and common Honesty. The Laws in being will quadrate as well with a Verdict obtain'd by this Scheme as by the old one ; or if any Alteration wou'd be necessary, it would be so small, that both it and the Proposal might be brought within the Compass of an Act of Parliament.

I hope the Reader will not think it too much to expect an Act of Parliament for the Purpose, since the Cause of Conscience, and Justice, since the Good of the Publick is so interested in it ; and since the Parliament, always studious of our Welfare, has already shewn its Sentiments of a Petty Jury by the balloting Act, the Intention of which is to prevent Partiality in the Choice of a Petty Jury. Now the Necessity of this Prevention, every one knows, is in Proportion to the Opportunities of, or rather Temptations to Injustice, thrown in a Jurymen's Way by the Constitution of a Petty Jury. But why a Remedy in Cases of Property, and not as well in criminal Cases ? Are our Lives less valuable than our Possessions ? Or why a Remedy in Part, when the Cause of Grievance might be as easily cut out of our constitution Root and Branch ?

But some will object that Changes in the Law are Dangerous. It is true they are, when they bring with them any considerable
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Alteration in the Constitution ; but the Change now proposed can effect no Sort of constitutional Innovation. The several Parts of the political Building, are just where they were, only in a little better Repair. If mere Changes in the Law be so dangerous, how comes it to pass that we are not long ago ruined by the frequent Acts of Parliament to amend or repeal old Laws, and to establish new ones ? Changes for the Better are as useful in the Law as in other Things. That the Change now proposed wou'd be for the Better, I hope will appear to every Body who considers, that as the Matter now stands, a Party can carry the most unjust Cause, or a single Person thro' Ignorance, Prejudice, or Obstinacy hinder the most Equitable from taking Place ; that, after much Time and Trouble, to say no worse, a Tryal may be drawn, like a Game at *Polish*, to the irreparable Detriment of both Parties, especially that which is in the Right ; and that on the other Hand, not only these Grievances are likely to be redress'd by the Proposal, but a World of Perjury and Corruption prevented.

The same Objector will perhaps say, that tho' the Proposal looks plausibly, yet it wou'd not be safe to throw the Course of Law and Justice, out of the old Channel, into one new and untried. But perhaps it wou'd, provided the old Channel is manifestly render'd indirect by turning to avoid this Heighth, and winding through that hollow ; provided too that the new one

is apparently direct and regular. However, allowing this Objection to be true, it does not in the least affect the Proposal, the Nature and Substance of which is so far from being new, that it has been much better try'd than our Petty Jury. It is essentially the same with the *Athenian* and *Roman* Practice; and therefore as an ample Experiment has been made of it's Usefulness and Excellence by two Commonwealths so famous for Wisdom, good Government, and Liberty, those who cannot see its Usefulness, or dare not trust it, because they have not actually tried it, ought to approve of it, upon the Authority, of *Athens* and *Rome*, rather than of a Petty Jury, on the Recommendation of the *Goths* and *Saxons*, from whom we have it. That we have not made aay Tryal of the Proposal ourselves, is true. But in answer to that, it will be sufficient to observe, that the Tryal we have made of a Petty Jury gives it no manner of Advantage; but on the contrary, gives every Friend to Reason and Justice Occasion to wish for any other Expedient.

The *Athenians* sometimes voted with white and black Stones, in much the same Manner with the Scheme. They had two Urns, each of them so narrow at the Neck that one Stone only cou'd be put in at a Time. They put all the white into one Urn, and all the black into the other. They shew'd the Ball openly, and presented it with their Thumb, Fore-finger and Middle. In this Way of voting, the Judgment

ment of every one was known ; so to remedy this great Defect, they afterwards made use of little Balls or Pellets of Brass, one half of which being perforated by a small Hole were damnatory, the other that were not perforated, acquitted. When they presented these, they cou'd cover the two Apertures of the Hole with their Thumb and Finger, by which Means at the same Time that they shew'd openly the single Ball by which they voted, they concealed the Nature of the Vote. They did not confer between the Examination of Witnesses, and voting their Verdict. The Decision was found by the Majority, and the Poll taken by an Officer appointed for the Purpose, who with a Rod kept the different Kinds of Balls asunder, as they were told out. In capital Cases they went through two Polls ; in the First they determin'd whether the Person shou'd be condemn'd or acquitted ; in the Second (if the Person was condemn'd in the First) they determin'd the Quality of his Crime and Punishment:

The *Romans* for many Years gave their Votes *vivâ voce*, by which Method many of the lower People, thro' Fear of their Superiors voted against their Consciences. To remedy this Evil, *Gabinus* procured a Law, that the People in their Elections might not vote openly, but by certain Tablets. Afterwards *Cassius* preferr'd a Law that this Way of voting by Tablets shou'd be used by the Judges in their Judgments, and the People in their *Comitia Tributa*, in which they treated of Mulcts and Amercements. *Cælius*
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the Tribune extended this Privilege of voting by the Tablet to Cases of Treason, and Papirius to the Proposal of their Laws. The Manner in which they voted was this. Every Judge received from the Prætor three Tablets; on one there was an *A.* for *absolvo*; on another a *C.* for *condemno*; and on the third *N. L.* for *non liquet*. These the Judges, who answer'd to the Jurors among us, convey'd privately into Urns set for the Purpose, and their Determination was found by the Majority. I do not find that the Judges conferr'd between Tryal and Determination, but that immediately upon receiving their Tablets, they disposed of them into the several Urns according to their Sentiments.

Thus we see both the *Athenians* and *Romans*, after having felt the ill Effects of a Method, in Substance the same with ours, laid it aside, and betook themselves to that which I have been proposing. So we have their Example, not only for the Thing it self, but likewise for the Expediency and Prudence of the Change. They concealed their Votes, which they could never have done had they conferr'd upon the Merits, and they were determined by a Majority: They were in some Measure forced into this Contrivance by the Growth of Artifice and Ambition among them. If this seem'd a sufficient Cause for such a Change to them, why shall it not, when aggravated by the Propagation of Perjury under a Religious Dispensation so much more binding on the Conscience than theirs, seem also sufficient

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to us? And if their Legislature had the Virtue, and the Concern for the publick Welfare, to make an Alteration, by which their private Interests were more affected, than in such a Case the Interests of any Peer or Commoner among us can be, why may we not expect it from ours, who are prompted by the same Love for their Country, and the Influence of a better Religion? What Blessings will that Parliament merit from the People, and meet with from Divine Providence, whose Zeal for Justice, for Liberty, and the Veneration due to the Name of God, shall bestow on their Country a Law so necessary, and of such extensive Benefit! Those worthy Members of either House, who shall appear the foremost to set on Foot some effectual Scheme for this great Purpose, and bring it to effect, shall be esteemed the Fathers of their Country for the present, and be remembered by succeeding Generations as publick Benefactors of the first Rank. And as the Righteous shall shine in a better Life than this, as the Stars in Heaven, so I wish it were no Offence to the mistaken Delicacy of these libertine Times, to say that such Friends to Justice and the Sanctity of Oaths, shall shine as Stars of the first Magnitude and Lustre, or as the Sun in his Strength. Surely our poor Country is not quite destitute of such Patriots, nor Truth, Justice, and Liberty of such Asserters.

On the other Hand, there can be no Contempt too great, no Reproach too infamous for such, as shall subscribe and abet
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the many Grievances under which their Religion and Country labour by opposing the only visible Remedy that can be apply'd to them. What Notion ought we to entertain of a Conscience capable of postponing so great and excellent a Purpose to little base Views of engrossing the Interest of a County, of wresting the Laws, and warping Justice by such an Instrument as Perjury! Or what Notion can we form of an Understanding (if such an one there be) that is so wedded and enslaved to an Usage, merely because it is old, that he dare not change it for a better, nay for an older! With what Indignation ought an honest Heart to rise at a Wretch, so impudently proud and selfish, as to prefer the Grandeur of being the ruling Rogue of his County, to the Cause of Justice and his Country's Good! And with what Scorn ought a Man of Sense to look down on a Mind possess'd with greater Veneration for the mere Rust and Cobwebs of Antiquity, than for Conscience and Liberty! Surely there cannot be many of these in our poor Country: If there be, it is a poor and miserable Country indeed.

Some People will say, perhaps, that this Proposal is made by somebody, who has contracted a Prejudice against Petty-Juries in general, from some Disappointment suffer'd by the Verdict of a particular Jury. But I solemnly protest that neither I, nor any near Relation of mine, that I know of, was ever engag'd in a Law-suit of any Moment. Nor is there any more Reason
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for my being prejudiced against a *Gotbick*, than in Favour of a *Greek* or *Roman* Usage. It is tracing the Source of this little Dissertation too far to suppose it the Effect of any Thing, but that which it declares in every Page, a Concern for the Sanctity of Oaths, and the free and fair Distribution of Justice. If it be a Fault to be grieved at the Perversion of the one, or the Violence done to the other, I am guilty. And if I have been mistaken in either the Evil I complain of, or the Remedy I have proposed for it, I stand corrected; but it is only by the Censure of those, who have both Understanding in such Matters, and some Zeal for Conscience and common Honesty. Those who have not, may be good Criticks in the Laws of private Cabals, and dark Affociations; but I hope they will never seem to be proper Judges of their Country's Laws. They seldom look as far as their own real Interest, never farther. They cannot extend their Views to the Publick Good, nor make a Nation the Object of their Affection and Concern. They cannot therefore judge of the publick Interest.

F I N I S.

